

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

In re

Vicky Rodríguez Torres
Debtor

Bankruptcy Case 09-10864 (BKT)

CHAPTER 7

Vicky Rodríguez Torres
Plaintiff

Adversary Proc. 10-00137 (BKT-7)

v.

18 U.S.C. §1030

18 U.S.C. §2510

18 U.S.C. §2701

**Enid López-López, Guillermo Camba-Casas,
Mariela Rexach Rexach, Government
Development Bank of P.R., et als.**
Defendants

42 U.S.C. §1983

42 U.S.C. §1985

42 U.S.C. 1988

TORTS

**MOTION FOR ATTORNEY MARIELA REXACH REXACH
TO APPEAR UNDER THE EXCEPTION CARVED OUT BY
RULE 3.7(a)(3) OF THE MODEL RULES OF PROFESSIONAL CONDUCT**

TO THE HONORABLE COURT:

COMES NOW, Co-Defendant, Mariela Rexach-Rexach (hereinafter “Rexach”), through the undersigned counsels, and respectfully represents and prays:

1. Co-defendant Mariela Rexach-Rexach is legal counsel for the GDB in all matters Rodríguez has filed against the Bank--that is, Rodríguez I, Rodríguez II, and the administrative process before the official examiner, amongst others. In addition, in Rodríguez I, she appeared as counsel for Enid López, while in the Rodríguez II, she is also representing Guillermo Camba.

2. We respectfully submit to the Court, her inclusion as a defendant in the present adversary proceeding is not only an unabashed and improper attempt to disqualify her as legal counsel for these defendants, it is a vexatious attempt to seek discovery of information protected by the attorney-client privilege which has been denied to plaintiff in the other proceedings.

3. As is more fully discussed in the Motion to Dismiss filed on September 21, 2010, plaintiff's Complaint is so deficient that it should be dismissed under either Rules 12(b)(1) or 12(b)(6) of the Federal Rules of Civil Procedure, applicable to contested matters under Rule 7012(b) of the Federal Rules of Bankruptcy Procedure. However, by sole virtue of plaintiff having named Ms. Rexach as a defendant, and notwithstanding the utter dearth of any factual averments against her, while the Adversary Complaint is pending Ms. Rexach may have to appear as witness and, thus, be listed as such in the Joint Proposed Pretrial Order to be filed in compliance with Rule 7016-1(c) of the Local Bankruptcy Rules or any other Pretrial Report. This situation is one of the main reasons for our Motion to Convert which was filed earlier today.

4. Rule 3.7 of the Model Rules of Professional Conduct, provides that "[a] lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness." This rule would, at first blush, appear to disqualify Ms. Rexach from acting as an advocate in the instant case. However, the undersigned respectfully submit to the Court that preventing Ms. Rexach from acting as advocate in this case, particularly as it relates to the issues which underlie the Motion to Dismiss, would result in substantial hardship to the GDB. Her experience, knowledge and understanding of the proceedings as they have developed in Rodríguez I, Rodríguez II and the administrative process, are essential for the Court to fully understand the arguments raised therein, particularly in light of plaintiff's and her counsel's repeated and documented misrepresentations to this Court.

5. We accordingly request that Ms. Rexach be allowed to appear as counsel under the exception carved out by Rule 3.7(a)(3) or, alternatively, to appear pro se.

WHEREFORE, Rexach respectfully requests this Honorable Court to grant her leave to appear as counsel under the exception carved out by Rule 3.7(a)(3) of the Model Rules of Professional Conduct or, alternatively, to appear pro-se.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 29th day of September 2010.

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on this same date, the foregoing was filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to CM/ECF participants, and caused it to be served on the next business day via a third party court authorized noticing provider BK Attorney Services to: William Meléndez, Esq., 410 Park Avenue 15th Floor #1223, New York, NY 10022.

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